

CITY COUNCIL AGENDA

FEBRUARY 11, 2003

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
TERRY O. GREGORY
DAVID D. CORTESE
JUDY CHIRCO
PAT DANDO, VICE MAYOR

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.ci.san-jose.ca.us/cty_clk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

Closed Session: **Cancelled**

1:37 p.m.Regular Session, Council Chambers, City Hall

Absent Council Members: None.

- **Invocation (District 2)**

The Fourth through Sixth grade members of the Oakridge Elementary School Student Council read a poem entitled “Why We Like to Live in California”, and sang a song entitled, “California is Her Name” by Lisa Atkinson.

- **Pledge of Allegiance**

Mayor Gonzales led the Pledge of Allegiance.

- **Orders of the Day**

Orders of the Day were approved.

1 CEREMONIAL ITEMS

2 CONSENT CALENDAR

2.1 Approval of Minutes.

None.

2.2 Final adoption of ordinances.

None.

2 CONSENT CALENDAR

2.3 Approval of a contract for the River Glen Park Restroom Building Project.

Recommendation: Report on bids and award of contract for the River Glen Park Restroom Building Project to the low bidder, and approval of a five percent contingency. CEQA: Exempt, PP02-12-365. Council District 6. (Public Works)
(Deferred from 1/28/03 – Item 2.7)

Staff directed to bring this item to Rules Committee 2/12/03 to be agendaized on 2/18/03 for rejection of bids and to continue to develop a pre-qualification strategy to ensure ADA compliance on modular facilities.

2.4 Approval of a contract for the Ramblewood Park Play Area Renovation and Restroom Project.

Recommendation: Report on bids and award of contract for the Ramblewood Park Play Area Renovation and Restroom Project to the low bidder, and approval of a five percent contingency. CEQA: Exempt, PP02-12-392. Council District 7. (Public Works)
(Deferred from 1/28/03 – Item 2.8)

Deferred to 3/18/03.

2.5 Approval of an agreement for the Security System Upgrades Project at the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a third amendment to the consultant agreement with Glover/Resnick & Associates, Inc., for additional construction administration services to support the Security System Upgrades Project at Norman Y. Mineta San José International Airport, increasing compensation by \$20,000, from \$214,544 to \$234,544, and extending the agreement by three months to June 30, 2003. CEQA: Resolution No. 67380, PP 02-03-041. (Airport)

Resolution No. 71402 adopted.

2.6 Approval of an ordinance revising the cap on final compensation in the Federated City Employees' Retirement System.

Recommendation: Approval of an ordinance amending Section 3.28.030.11 of Chapter 3.28 of the San José Municipal Code to revise the provisions relating to the cap on final compensation in the Federated City Employee's Retirement System. CEQA: Exempt, PP03-01-025. (Board of Administration Federated City Employees' Retirement System)

Ordinance No. 26828 passed for publication.

2 CONSENT CALENDAR

2.7 Approval of an ordinance allowing transfers from Deferred Compensation Plans to the Police and Fire Retirement Plans and the Federated City Employees' Retirement System.

Recommendation:

- (a) Approval of an ordinance amending Chapter 3.36 of Title 3 of the San José Municipal Code by adding Section 3.36.490 to provide for the acceptance of plan-to-plan transfers from eligible deferred compensation plans to the Police and Fire Department Retirement Plan for the purpose of purchase of permissive service credit.

Ordinance No. 26829 passed for publication.

- (b) Approval of an ordinance amending Chapter 3.28 of Title 3 of the San José Municipal Code by adding Section 3.28.280 to provide for the acceptance of plan-to-plan transfers from eligible deferred compensation plans to the Federated City Employees Retirement System for the purpose of purchase of permissive service credit.

CEQA: Exempt, PP03-01-027. (Boards of Administration Federated City Employees' Retirement System and Police & Fire Department Retirement Plan)

Ordinance No. 26830 passed for publication.

2.8 Approval of an agreement for artwork at the Berryessa Branch Library (Bond Funded).

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with artist Joe Saxe to fabricate and install an artwork at the Berryessa Branch Library, in an amount not to exceed \$140,097. CEQA: Exempt, PP02-11-319. Council District 4. (Conventions, Arts and Entertainment)

Resolution No. 71403 adopted.

2.9 Approval of an ordinance to change the name of the Disadvantaged Business Development Commission.

Recommendation: Approval of an ordinance to amend Chapter 2.08 of Title 2 of the San José Municipal Code to repeal Part 25 and add a new Part 43 to change the name of the Commission on Disadvantaged Business Development to the Small Business Development Commission. CEQA: Exempt, PP03-01-026. (Economic Development)

Ordinance No. 26831 passed for publication.

Staff to add item A-4 under "Functions, Powers & Duties", that says "the City of San José's progress in increasing participation by small businesses and City contracts".

2 CONSENT CALENDAR

2.10 Approval of actions related to the Zone 1 fire protection agreement.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute the Ninth Amendment to the Zone 1 fire protection agreement with the Santa Clara County Central Fire Protection District (Central Fire), extending the term of the agreement until June 30, 2003.

Resolution No. 71404 adopted.

- (b) Direct the Fire Department to negotiate a new agreement and submit the agreement for Council approval by June 30, 2003.

CEQA: Not a Project. (Fire)

Approved.

2.11 Approval of various actions related to the annexation of Monterey Park No. 104.

Recommendation: Adoption of a resolution initiating proceedings and setting February 25, 2003 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as Monterey Park No. 104 which involves the annexation to the City of San José of approximately 85.8 acres of land, located on the south side of Curtner Avenue approximately 700 feet easterly of Highway 87, and the detachment of the property from the relevant special districts, including Central Fire Protection and the County Library Service Area. CEQA: Negative Declaration, PDC02-042. Council District 7. (Planning, Building and Code Enforcement)

Resolution No. 71405 adopted.

2.12 Approval of actions related to an award for an Office of Criminal Justice Program, Internet Crimes Against Children (ICAC) Task Force Grant.

Recommendation: Adoption of a resolution accepting an award for an Office of Criminal Justice Program, Internet Crimes Against Children (ICAC) Task Force Grant in the amount of \$299,491 and adoption of related appropriation ordinance and funding sources resolution amendments in the General Fund for expenses related to the grant.

CEQA: Not a Project. (Police/City Manager's Office)

Resolution Nos. 71406 and 71407 adopted.

Ordinance No. 26832 adopted.

2.13 Acceptance of a donation of property at the southwest corner of King Road and Schulte Drive.

Recommendation: Adoption of a resolution authorizing the Director of Public Works to execute a deed acceptance form on behalf of the City for a 4,202 square foot portion of property at the southwest corner of King Road and Schulte Drive, owned by the Santa Clara Valley Water District. CEQA: Negative Declaration, PP02-03-040. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works)

Resolution No. 71408 adopted.

2 CONSENT CALENDAR

2.14 Approval to set a public hearing and vacate a portion of the east side of Eighth Street.

Recommendation: Adoption of a resolution of intention to vacate a portion of the east side of Eighth Street, between Hedding and Mission Streets and setting a public hearing on March 4, 2003 at 1:30 p.m. CEQA: Negative Declaration, PDC97-08-056. Council District 3. SNI: NA. (Public Works)

Resolution No. 71409 adopted.

2.15 Approval to award a contract for the San Tomas Aquino Trunk Rehabilitation Project (Phase II).

Recommendation: Report on bids and award of contract for the San Tomas Aquino Trunk Rehabilitation Phase II Project to the low bidder, Gelco Services, Inc., in the amount of \$275,105.30, and approval of a contingency in the amount of \$27,500. CEQA: Exempt, PP02-04-065. Council District 6. SNI: NA. (Public Works)

Approved.

2.16 Approval of City Auditor Gerald Silva's travel calendar.

Recommendation: Approval of City Auditor Gerald Silva's travel calendar through June 30, 2003. Funding: Non-Personal budget. (City Auditor)
(Deferred from 2/4/03 – Item 2.3)

Approved.

2.17 Approval of six appointments to the Project Diversity Screening Committee.

Recommendation: Approval of six appointments to the Project Diversity Screening Committee. (Mayor)
(Rules Committee referral 2/5/03)

Council approved the following six appointments to the Project Diversity Screening Committee: Mohammed Chaudhry (District 6), Richard Patterson (District 1), Patricia Lamar (District 5), Madison Nguyen (District 7), Ike White (District 8), and Rebecca Hughes (District 09).

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

- (a) Meeting of May 23, 2002 – Proposed 2002-03 Operating Budget
- (b) Meeting of May 24, 2002 - Proposed 2002-03 Operating Budget

Reports of the 2002-2003 Operating Budget and Study Sessions of May 23 and 24, 2002 accepted.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee

Vice Mayor Dando, Chair

Meeting of January 29, 2003

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review February 11, 2003 Draft Agenda
The Committee deferred Council Member Reed's request for *development of a disclosure of public records protocol* for two weeks, at which time the City Attorney was directed to return with an Information Memorandum restating the facts given to the Committee today, and a timeline indicating when his final document would be presented to Council. In addition, when the final document is presented to Council, the City Attorney was directed to include a basic comparative analysis of the Brown Act, the California Public Records Act, and Council Member Reed's recommendations. The Committee recommended approval of the February 11, 2003 City Council agenda.
 - (2) Add New Items to February 4, 2003 Amended Agenda
The Committee recommended three additions to the February 4, 2003 City Council agenda.
 - (3) Staff Reports Outstanding
The Committee noted and filed the City Manager's report listing one staff report outstanding for the February 4, 2003 Council agenda.
- (c) City Council Committees
None filed.
- (d) Meeting Schedules
There were none.
- (e) The Public Record
There was no Public Record filed.
- (f) Boards, Commissions and Committees
 - (1) Project Diversity Screening Committee
The Committee recommended deferring this item for one week.
- (g) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
There were none.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee (Cont'd.)

Vice Mayor Dando, Chair

Meeting of January 29, 2003

- (h) Administrative Reviews and Approval
 - (1) Report on workload assessment to adopt a policy that would prohibit the City from entering into contracts with vendors or contractors that do not provide equal benefits to domestic partner employees
Deferred to 2/12/03 Rules Committee.
- (i) Oral communications
None were presented.
- (j) Adjournment
The meeting was adjourned at 2:25 p.m.

Rules Committee Report and actions of January 29, 2003 accepted.

3.2 Report of the Rules Committee (partial)

Vice Mayor Dando, Chair - Meeting of February 5, 2003

- (f) Boards, Commissions and Committees
 - (1) Project Diversity Screening Committee
This item was dropped from the agenda.

3.3 Report of the Making Government Work Better Committee

Council Member Campos, Chair

No report.

3.4 Approval of the 2002-2003 Mid-Year Budget Review Report.

Recommendation:

- (a) Approval of the 2002-2003 Mid-Year Budget Review.
Approved, with direction to Staff to provide:
 - 1. **An explanation of increase of the Civic Center parking line item on page 15.**
 - 2. **A breakdown on the source of both Construction related and Construction and Conveyance (C&C) taxes, including a list of Council-approved exemptions.**
 - 3. **A list of street maintenance projects delayed because of State-supported funds placed on reserve status.**
- (b) Adoption of related appropriation ordinance and funding sources resolution amendments for the 2002-2003 Mid-Year Budget Review.
CEQA: Not a Project. (City Manager's Office)
Ordinance No. 26833 adopted.
Resolution No. 71410 adopted.

3 STRATEGIC SUPPORT SERVICES

3.5 Campaign Finance Review and Ethics Board interviews.

Recommendation: Interview applicants to fill three unexpired terms on the Campaign Finance Review and Ethics Board. (City Clerk)

HEARD LAST

Eight applicants for the Campaign Finance Review and Ethics Board were interviewed by the City Council. On the first ballot, Council appointed Regina L. Hillman, and Andrew Alexander Vu. On the third ballot Council appointed Judith A. Recchio with direction to the City Clerk to assign term ending dates by lot.

3.6 Appointment of a member of the Civil Service Commission to the Federated City Employees' Retirement System Board of Administration.

Recommendation: Appointment of a member of the Civil Service Commission to the Federated City Employees' Retirement System Board of Administration for a term expiring December 1, 2006. (Civil Service Commission)
(Rules Committee referral 2/5/03)

Council approved Civil Service Commissioner Dave Busse for appointment to the Federated City Employees' Retirement System Board of Administration for a term ending December 1, 2006.

3.7 Approval to continue an agreement for consulting services associated with the renewal of the cable franchise agreement.

Recommendation: Approval of a continuation agreement providing a six-month extension to June 30, 2003 of the existing agreement, at no additional cost, with Miller & Van Eaton for consulting services associated with the renewal of the cable franchise agreement. CEQA: Not a Project. (City Manager's Office)
(Rules Committee referral 2/5/03)

Approved.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chavez, Chair

No report.

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

No report.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Approval of various actions related to Policy 9-3: Community Identification Signs.

Recommendation: Adoption of a resolution:

- (a) Rescinding the current Council Policy 9-3 prohibiting the installation of community identification signs other than those of a historical nature; and
- (b) Adopting a replacement policy based on the proposed guidelines and criteria for allowing community identification signs and architectural/gateway monuments within the public right-of-ways outside the Greater Downtown Area.

(Planning, Building and Code Enforcement)

[Economic Development & Environment Committee referral 12/2/02 – Item 4.1(b)]

(Deferred from 12/17/03 – Item 4.6 et al., and 1/28/03 – Item 4.4)

Deferred to 2/25/03.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair

No report.

5.2 Approval of a contract for the Biebrach Park Play Area Renovation and Restroom Replacement.

Recommendation: Report on bids and award of contract for the Biebrach Park Play Area Renovation and Restroom Replacement to the low bidder, and approval of a nine percent contingency. CEQA: Exempt, PP02-09-259. Council District 3. SNI: Gardner. (Public Works)

(Deferred from 1/14/03 – Item 5.3 and 1/28/03 – Item 5.2)

Deferred to 3/11/03.

5.3 Approval to award a contract for the Rainbow Park Play Area Renovation and Restroom Project.

Recommendation: Report on bids and award of contract for the Rainbow Park Play Area Renovation and Restroom Project to the low bidder, JFC Construction, Inc., in the amount of \$427,408, and approval of a contingency in the amount of \$21,500. CEQA: Exempt, PP02-12-391. Council District 1. SNI: NA. (Public Works)

Approved.

6 TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Cortese, Chair

No report.

7 ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of an agreement for consultant services for engineering and technical support at the Water Pollution Control Plant.

Recommendation: Approval of a continuation agreement with Brown and Caldwell for consultant services for engineering and technical support at the San Jose/Santa Clara Water Pollution Control Plant, extending the term of the agreement from January 1, 2003 to December 31, 2004, at no additional cost to the City. CEQA: Not a Project.

(Environmental Services)

(Deferred from 1/28/03 – Item 7.1)

Approved.

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

- Closed Session Report
- Notice of City Engineer's Pending Decision on Final Maps
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:
None.

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:
None.
- Open Forum
Ross Signorino spoke on the issue of SUV's and pollution; Lilyann Brannon, Kathryn Mathewson, and Yolanda Reynolds spoke in opposition of the proposed development of the University of California Agricultural Research Center Site.
- Adjournment
The Council of the City of San José adjourned in memory of Al Ruffo, the former Mayor of San José.

The Council of the City of San José adjourned at 4:50 p.m.